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March 3, 2014

BY EMAIL

Honorable Cathy Seibel
United States District Judge
Southern District of New York
Hon. Charles L. Brieant Jr. Federal
Building and United States Courthouse
300 Quarropas Street
White Plains, NY 10601-4150

***In re Mirena IUD Products Liability Litigation, 13-MD-2434, 13-MC-2434;
Dorena Borders v. Bayer HealthCare Pharmaceuticals Inc., 7:13-cv-06818-CS; Amanda
Truitt v. Bayer HealthCare Pharmaceuticals Inc., 7:13-cv-07811-CS***

Dear Judge Seibel:

Pursuant to Your Honor's suggestion at the February 26, 2014 conference, Defendants have identified Amanda Truitt as an alternative plaintiff on which to make a Motion to Dismiss on statute of limitations grounds. As Your Honor may recall, Bayer's initial proposed Motion to Dismiss was to be directed at plaintiff Dorena Borders, but Ms. Borders' counsel recently informed Bayer that voluntary dismissal is becoming a possibility.

In her Complaint, Ms. Truitt alleges that in July 2011, she was diagnosed with a perforated uterus and "was advised that she would need to undergo a laparoscopy to have the Mirena® surgically removed," with surgery taking place the next day. (Complaint at ¶¶ 24-25.) Ms. Truitt filed her action in the Northern District of Texas in September 2013. According to her Complaint, she was at all times relevant to her claims a resident and citizen of the State of Indiana. Ms. Truitt's claims are barred under both the Indiana and Texas two-year statutes of limitations for personal injury or products liability actions.

Keeping with the Court's desire that the schedule for an alternative Motion to Dismiss only trail the Borders schedule by two weeks, Defendants propose that Ms. Truitt amend her Complaint, if necessary, by March 24, 2014. Bayer will then file a Motion to Dismiss by April 7. Plaintiff's opposition will be due on April 24, and Bayer will submit a reply by May 8.

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If, on the other hand, Ms. Borders amends her Complaint by the current March 10 deadline, then Bayer will move to dismiss Ms. Borders' Complaint by March 24 per the Court's prior Order.

Respectfully submitted,

/s/ Shayna S. Cook

Shayna S. Cook

Lead Counsel for Defendants

*Bayer HealthCare Pharmaceuticals Inc., Bayer OY, and
Bayer Pharma AG*

CC (via email):

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